

We better avoid ruse

Judicial investigation by a High Court judge imperative

LET us call a spade a spade. In a belated, rather grudging, show of sensitivity to the barrage of criticism drawn by it over a series of crossfire deaths, a poor prevarication of extra-judicial killings in Rab and police hands, the government has decided to hold 'executive' investigation into all such unnatural deaths.

The announcement of the decision has a vibe of acknowledging a Rocca visit and the EU concern for human rights having been voiced *a priori*. It has a ring of familiarity too with the placatory touch of sophistication shown under the spell of an impromptu donor community meet on Bangladesh earlier on.

Shall we ever learn to act preemptively to save us the embarrassment of doing it when forced down the gullet? It could have been nipped in the bud with perhaps the same executive inquiry which is not just too little too late now but also abjectly suspect after 365 instances of so-called crossfire death.

Turn now to the potential quality of the evasive, self-explanatory executive probe! Understandably, it will be held by magistrates, who are under the executive control of the government susceptible to doing its bidding. We see why it is an 'executive' probe! It's a shade upbeat than departmental or the earlier-vintage executive inquiry, though. But what conclusion did those administrative inquiries reach? Most of the instances of firing were given a clean chit!

Although we would like to believe that the latest correctional sounding move is serious, the governmental attitude, disposition and approach so far towards any hint of humans rights violation by the media, legal circles and broader civil society hardly inspire any confidence in the new resolve. Let's be dispreved on it.

Yet, our overriding suggestion is that the government has judicial investigation headed by a sitting High Court judge into the whole episode without which no fair trial is possible.

The root goes deeper, indeed. There is the factor of blanket dropping of cases by the BNP government pertaining to 72,000 who were accused on 'political considerations' of assorted crimes during the preceding AL rule. The wholesale release of the accused was an unthinking reaction on the part of BNP government to the AL's perhaps sweeping haul-ups, because among the let off might well have been real criminals who needed to be proceeded against under any government. One couldn't easily shrug off an impression that among those set free are elements who have had a hand in wreaking havoc on law and order.

Over all, the right way to go about the whole thing, to our mind, would have been to take at the right time some of the other decisions the cabinet committee has taken, such as for setting up separate crime control and investigation units in different police stations and placement of senior police officials in charge of investigations. Reforming and materially strengthening the police force hold the key to establishing an effective and sustainable crime control regimen.

Unqualified disappointment

The golden goose yet to lay egg!

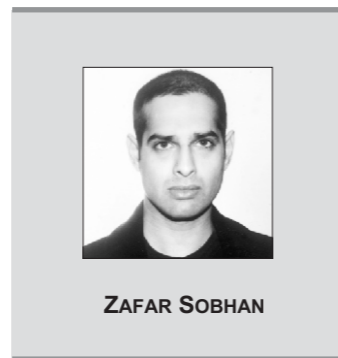
THE waterway between Sadarghat and Ashulia which was inaugurated about two months back with a view to providing an alternative communication route to commuters around the city, remains a non-starter. The only launch that was operating on this route immediately after the much-vaunted inauguration is no longer in service. So the waterway developed at a cost of Tk 36 crore is far from serving its purpose.

It is a multi-purpose project that was welcomed by all and sundry for some obvious reasons. First, it could take the great pressure off the city roads where millions of commuters are dependent on just one mode of transport. The commercial potential of the waterway could be utilised by commissioning river vessels and tying them up into a viable, thriving network.

However, travelling by launch along the outer rim of the city is a new concept for Dhaka dwellers which is why it needed to be popularised through an imaginative and sustained publicity campaign. But the planners clearly failed to do the needful there. Moreover, the idea of extending the waterway to some other points, keeping Sadarghat terminal as the central one -- has not worked well either. Launch owners have complained of incurring losses in the absence of passengers at Gabtali terminal.

It can be turned into a busy route where people would enjoy short river cruises at affordable prices. But the unusual delay in starting it might have already dampened some of the enthusiasm with which people had looked forward to a new development in terms of the city's communication networking. Let the golden goose start laying eggs.

The only game in town



ZAFAR SOBHAN

THIS has been a good month for the opposition. Note that I didn't say that this has been a good month for the AL, although that would have been true, too.

The reason is that, to my mind, the principal development in Bangladeshi politics of late has been the AL's acceptance of the notion that in order to unseat the government it will have to reconfigure itself as part of a broad-based opposition coalition, and all of the positive developments that I alluded to in the first line of this piece have occurred within the context of this understanding.

To the extent that the evidence of the AL's willingness to genuinely reach out to others in the opposition and to accommodate their concerns is mounting, this could trigger a decisive shift both in the effectiveness of the opposition to present an alternative to the current government and in public opinion.

The most recent piece of good news for the opposition was, of course, the land-slide re-election of Mohiuddin Chowdhury as mayor of Chittagong. The most significant aspect of Mohiuddin's victory, however, was the fact that he chose to contest the election not as

the AL candidate, but as the candidate of the Nagorik Committee, a broad-based opposition coalition.

But the Chittagong election was not the only piece of good news for the opposition and for the public anxiously waiting to see whether it will be offered a genuine choice for change in the next elections.

The belated decision taken by the AL high command to finally expel Joynal Hazari from the party was the first sign that the winds of change might be blowing through party headquarters. The move

stand on principle when it comes to the issue of cleaning up their politics. Of course, to be truly convincing, the house cleaning cannot end with the expulsion of Hazari. But what we are seeing is the beginning of an internal struggle to realign the party along lines more broadly acceptable to the general public.

Even if one questions the degree of principle behind the expulsion, there is no arguing with the fact that the end of Hazari makes for good politics. In expel-

number of fronts.

In the first place, it indicates that Sheikh Hasina is willing to countenance the notion that a rapprochement between the AL and its one-time presidential candidate might benefit the party, no minor development in and of itself.

In the second, the fact that Dr. Hossain has taken this step is an apparent endorsement, albeit tentative at this stage, of the direction in which the AL seems to be heading. It is surely no coincidence that the meeting came only

would not be dominated by it, or merely be the AL by another name.

Returning to the issue of the Chittagong election, what was demonstrated was not only the efficacy of running as a coalition candidate, but also the fact that such a coalition could successfully mobilise its supporters and activists to protect its votes and voters.

The AL has made strenuous allegations of rigging with respect to the 2001 elections. These allegations didn't get much traction

cerns about the integrity of the coming elections expressed by a wide range of opposition politicians. The ruling alliance has been busy putting its people in all the crucial positions, and with its control over the constitution of the election commission and the caretaker government, the fear is that the fix is in.

Chittagong demonstrated that mobilisation to counter efforts to rig the election might not be hopeless.

One lesson learned is that it would take a broad-based coalition to protect the vote. It is doubtful that the AL by itself would have been able to mobilise sufficient support in Chittagong to ensure that the ruling party machinations were neutralised.

The key to Mohiuddin's victory was not just the votes he amassed by virtue of his Nagorik Committee candidacy, but also the support he was able to mobilise on the ground on the day of the election to protect his voters and ensure an accurate count.

Whether this kind of success can be replicated all over the country in a general election remains to be seen. But one thing is certain, in the absence of a unified and broad-based opposition coalition it would be hard to persuade the voting public that genuine change is in the offing, and even harder to ensure the integrity of the vote.

For the opposition, unity is the only game in town.

Zafar Sobhan is Assistant Editor of The Daily Star.

STRAIGHT TALK

The key to Mohiuddin's victory was not just the votes he amassed by virtue of his Nagorik Committee candidacy, but also the support he was able to mobilise on the ground on the day of the election to protect his voters and ensure an accurate count. Whether this kind of success can be replicated all over the country in a general election remains to be seen. For the opposition, unity is the only game in town.

was more symbolic than anything else, since Hazari has not set foot in the country since the last election, but in matters such as these, the signals that the political parties emit are important.

The only question with respect to the expulsion of Hazari was why it had taken so long. He has long been the poster child for everything that had gone wrong in the last AL government, and the party had precious little to gain and much to lose by keeping him within the fold. Tactics as well as morality would have suggested that he be shown the door long ago.

The fact that the AL has finally made the break indicates that they are perhaps prepared to take a

ling him, the AL is certainly acting in a tactically smart manner and one that is likely to expand confidence in its intentions among the rest of the opposition.

Hazari's expulsion can thus be seen as another in the line of confidence building measures entered into by the AL to demonstrate, both to its potential allies in opposition and to the general public, that it is willing to listen to its critics and adjust accordingly.

The third key event of the month was the meeting between Sheikh Hasina and Dr. Kamal Hossain, who have been estranged for many years. The fact that the two are even talking to one another is a significant development on a

days after Hazari's expulsion.

Of course, a meeting is just a meeting, but there is no question that this is a positive development for the formation of a broad-based opposition.

The common denominator in all three events is that the AL seems to have seen that its best bet is to reconceive itself as part of a broad-based coalition against the government.

This might be a more effective gambit than going it alone. The public is still somewhat distrustful of the AL, and it needs to show that it has changed and learned from its mistakes. More than that, it needs to show that it can be a team player and that a broad-based opposition

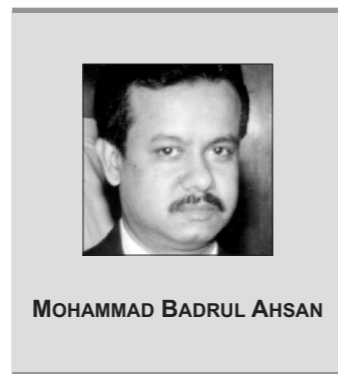
among the public, and even worse for the AL was the fact that no one much cared even if the allegations were true.

Most people are very cynical and believe that both parties try to steal elections. If one party is more able to do so, many people reason, this is merely evidence of their superior organisation and efficiency.

A more nuanced take that I have also heard is that if the AL, even after five years of incumbency, could not protect its votes and voters, how could it hope to do so in the coming elections after five years in opposition.

This is in fact a concern not just of the AL, and I have heard con-

A rented life



MOHAMMAD BADRUL AHSAN

It hurts like someone pouring melted lead into her veins, because the source of her pain runs in the blood. Sometimes she wishes she could drain out her blood, to cleanse her body of the shame that races through her arteries, pumped by her heart. She has heard about women who were raped in 1971, some of them forced to bear the children of soldiers who had disgraced them. What could be heavier than the burden of a woman who is compelled to bear the fruit of her own

night, the night when the dogs wailed and the night watchman blew his whistle, when every other daughter in the world were cuddled in bed in the warmth of their filial love.

This is the man whose blood runs in her veins, whose flesh is in her flesh, dispersed in her smile, dissolved in her tears. This is the man who is configured in her habits, constituted in her mannerisms, apparent in her appearance, the man whose ghost breathes in her soul like a relentless curse.

in her veins. She feels like a painting that wishes it was never drawn, a sculpture that wishes it was never carved, and a voice that wishes it was never heard.

On the nights when she doesn't sleep, when the wailing dogs and blowing whistles turn the dark night darker, when the resounding silence of the deepening night fills the world with the horror of death and desolation, she eats fruits as if to devour all things that are products of perishable unions. Children of broken homes

owes her own body, her own life to a man whose death she wishes in her every breath. Nothing hurts her more than that, more than the helpless sense of being a prisoner in her body, serving life sentence in its every cell. Life is a gift, but it has been put inside a body that came from an enemy, who used her mother to do his pleasure and then left that woman for another woman like a lustful bee going from flower to flower.

Her life is a franchise of that frivolous enterprise, which dealt in

He still visits her mother while living with his other wife, demanding money from her every month, claiming that had she not bore him a daughter, a son would have supported the father.

Love has the irony of ink and pen, because the ink endures long after the pen has finished. Her mother still loves that man, still hoping that one day he was going to come back to her when his fascination for the other woman will fade away like the brief spell of spring. So, she has to pay that man every month to keep her mother happy, to spare this unfortunate woman the misery of self-flagellation that she couldn't try one last thing to get him back.

When she eats fruits during sleepless nights, she feels she is eating her own flesh, her teeth sinking into her own skin, because it is a shame when a man and a woman make love and bring children to this world, leaving them to rot in eternal hatred.

Dogs wail at night, because they resent the dog's life, the futility of being faithful amongst humans who steal from each other. The nights she doesn't sleep, she turns to herself, and sits face-to-face with her own miseries. She feels like an unwanted wedge between a man and a woman, yet it's their love and hatred that controls her emotions. The night watchman blows his whistle, which rings in her head like thousand bugles.

She must wait before she falls asleep. She is living for a woman, who is living for a man. It's a rented life. She owns nothing.

Mohammad Badrul Ahsan is a banker.

CROSS TALK

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shame?

She has learned over the years that life is not fair, that it doesn't work like two sides of an equation, when every wrong is righted, every mistake is corrected, and every sin is punished. She has many regrets in life, but nothing more than the happenstance of her birth from the groin of a man who has been the bane of her life.

The nights she can't sleep, she thinks of this man whose arms cradled her when she was a child, and whose shoulders carried her when she got tired as a little girl. It all changed in the middle of one

She came from the seed of this man, sprouting like a plant that has now grown into a tree bearing the luscious fruits of beauty and youth. Men covet her now, men who remind her of the man, who had planted her in her mother's womb and then with one stroke of cruelty in the middle of a night, abandoned his wife and children like a planter rushing to disown his plantation.

She dies small deaths whenever she thinks of this man and she thinks of him whenever she looks in the mirror, smells her own breath, touches her own skin, and hears the murmur of blood rushing

are like amputees, who are haunted by the ghost of their missing limbs forever.

Often she thinks of those women of 1971, women who were forced to do the pleasure of ruthless men, and then forsaken to bear the children born out of the poison that was discharged in their blood. She paces in the house, turns in her bed, her mind agitated as if by the toxic fumes rising from her blood, her veins feeling like dark tunnels where a slithering beast moves back and forth.

She hates to take things from those she doesn't like, yet she

bodies, not in souls. She looks at her mother and feels the pain that must be throbbing in her sore flesh, the flesh, which was stepped in the love of a man, who left her faster than he changed his socks. She has watched her mother grow old, her flesh sagging in the drag down of age, her beauty and youth defeated by sorrow and shame that raged in her like a silent storm.

The nights she can't sleep, the nights when she hears the clanking noise of hardened grief inside her head, she seethes with anger and, in her mind, blows up that man into pieces again and again.

OPINION

Caretaker government: Reform is necessary

FARUK KHAN

EXTREME price hike, deteriorating law and order, uncertainty in investment, rise of extremist elements, torture of minorities, bomb and grenade attacks on opposition, wanton rigging in election, uncontrolled corruption, ineffective parliament etc, have been the prime matters of discussion in Bangladesh for the last three and half years. However, of late, the people of Bangladesh and even our foreign friends, while discussing these problems, have identified a truly free and fair national election as the only way out.

In the last six months, various political parties, civil society, media, NGOs and even our expatriates have given their valuable opinions and recommendation for a free and fair national election.

I wholeheartedly agree with them. Although the above mentioned problems have been with us for years, these have, however, over the last three and half years, given us more pain than ever before. These problems have seriously affected our image

internationally and have brought the country to the brink of collapse. In order to save the situation, a truly free and fair national election is a must, and to hold such an election, necessary changes in the Constitution regarding the neutral caretaker government (NCG) and the Election Commission are essential.

Today, almost everybody agrees on the requirement of reforms in the Election Commission (EC). I think a down-to-earth discussion would find them agreeing on the essential changes required in the EC. However, the government has not yet accepted the demand of Constitutional changes required in respect of the NCG. The following may be the reasons for such a stand of the government:

1. The present BNP-Jamaat coalition wants to use the loopholes present in the NCG provisions to their benefit as they did in 2001 election.

2. The present government wants to judge the seriousness of the opposition regarding their demand for reform of the NCG.

3. The present government does

not understand or does not want to understand that the previous caretaker government had actually violated the Constitution and did not conduct a free, fair, and neutral election.

In this write-up, I have tried to identify some of the cases of violation of the Constitution by the caretaker governments of 1996 and 2001. I hope that the government and all political parties would consider this and take necessary actions to ensure a free and fair election in future.

Within an hour of being sworn in as the Chief Adviser (CA), Justice Latifur Rahman posted thirteen secretaries of various ministries which violated Article 58C(1) of the Constitution which reads, "The Non-party Caretaker Government shall consist of the Chief Adviser at its head and not more than ten other advisers, all of whom shall be appointed by the President." The caretaker government is officially formed once the President has appointed the CA and all the ten advisers, and thus can act only when it is completely formed.

Justice Latifur Rahman, singularly, had no authority to post out secretaries or government officials. The then President, Justice Sahabuddin Ahmed, did not stop the CA. He, by his inaction also violated Article 48(2) of the Constitution which reads, "The President shall, as Head of State, take precedence over all other persons in the State, and shall exercise the powers and perform the duties conferred and imposed on him by this Constitution and by any other law." The Advisers also did not object to such a violation, and thus violated the Constitution themselves, too.

Article 58D(1) of the Constitution reads, "The non-party Caretaker Government shall discharge its functions as an interim government and shall carry on the routine functions of such government with the aid and assistance of persons in the service of the Republic; and, except in the case of necessity for the discharge of such functions it shall not make any policy decision". Posting of thirteen secretaries also violated this article since such a posting does not at all fall within 'routine function'. So the constitution was again violated.

However once the caretaker government was formed as per article 58C(1), the secretary to the Election Commission could have been removed if it was required in the interest of the election, which was not done throughout the tenure of the caretaker government. The thirteen secretaries who were posted out were not at all directly linked with the conduct of election.

The caretaker government during its tenure stopped the implementation of a number of important projects approved by the previously elected Awami League government, i.e. Di-ammonium Phosphate (DAP) fertilizer project, 20 megawatt power plant at Bhola etc, and also decided to undertake new projects. These were not 'routine functions' or necessary 'policy decisions'. The caretaker government is neither empowered to take policy decisions nor to stop policy decision of the previous elected government except in case of necessity for the discharge of election related functions. Thus, Article 58C(1) of the constitution was violated. We have to make provisions so that caretaker gov-

ernments cannot act in such manner in future.

The present alliance government has unnecessarily created confusion about the appointment of CA as per article 58C(3). Retired Chief Justice K M Hasan was appointed Chief Justice of Bangladesh superseding two senior judges of the Appellate Division, which is unprecedented in Bangladesh. The age limit of judges of Appellate Division was also raised from 65 to 67 years. These measures have made it clear that the government wants to appoint Justice Hasan, who was once a central committee member of the BNP, as the Chief Adviser of the NCG seemingly with ulterior motive. To avoid such a possibility article 58C of the constitution should be amended so that the CA of the caretaker government can be selected through consensus.

As per article 58B(3) which reads, "The executive power of the Republic shall, during the period mentioned in clause (1), be exercised, subject to the provisions of the article 58D(1), in accordance with this Constitution, by or on the authority of the Chief Adviser and

shall be exercised by him in accordance with the advice of the NCG Government", the caretaker government is empowered to exercise all 'executive power' of the Republic.

However, as per article 61 of the Constitution, the President has been vested with the authority of the Armed Forces of Bangladesh during the tenure of caretaker government only. It is pertinent to mention here that in 1996 only about 24 days before the national election of 12 June 96, the then President Abdur Rahman Biswas took some 'decisions' regarding the Armed Forces which created a serious situation and was about to disrupt the election. However the then CA Justice Habibur Rahman's deft handling of the situation saved the country from a serious threat to democracy. In order to ensure that Presidents, since they are elected by parties, prompted by partisan interest don't create such threats to democracy in future, article 61 should be amended to exclude "during the period in which there is a Non-Party Caretaker Government under article

58B, be administered by the President". This will result in full responsibility to the caretaker government of free and fair election and also will vest in them the 'requirement assets'.

It is evident from the above that the last two caretaker governments had violated constitutional provisions. Due to this, the voters were cheated. Many voters were influenced to vote against certain party. And due to all these, the caretaker government of 2001, in particular, failed in conducting a free and fair election.

The nation is paying dearly for these mistakes. In order to solve these problems, Articles 58B, 58C, 58D and 61 need to be suitably amended. I hope, the government, opposition political parties, civil society, media, NGOs and citizens would realise the depth of the problem and take suitable steps at the earliest.

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